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Of Attorneys for Defendant James Ray Yoakum

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

UNITED STATES OF AMERICA,)
Plaintiff,) No. CR 09-336-1-HA

JAMES RAY YOAKUM,) DEFENDANT JAMES RAY
Defendant.) YOAKUM'S OBJECTION TO
) GOVERNMENT'S MOTION TO
) DECLARE CASE COMPLEX,
) VACATE DATES, SET STATUS
) CONFERENCE, AND EXCLUDE
) TIME UNDER THE SPEEDY TRIAL
) ACT

Defendant James Ray Yoakum, by and through his appointed counsel, Ransom Blackman LLP and John S. Ransom, objects to the Government's Motion to Declare Case Complex, Vacate Dates, Set Status Conference, and Exclude Time under the Speedy Trial Act as follows:

1. Complexity

The government contends this case should be declared complex because it “currently involves eight defendants;” “span[s] more than a three-year period;” and is

"based in part on two Court-authorized wiretaps...[that generated] reports, line sheets, preliminary transcripts, and photographs [filling] over 10,000 pages [and] 7,900 pages of financial documents."

The alleged complexity generated by the number of defendants can be remedied by granting Mr. Yoakum's request to be severed from any co-defendants seeking a continuance.

The length of the alleged conspiracy says nothing about the complexity of the case; a review of the Superseding Indictment reveals nothing remarkable about the alleged conspiracy and the substantive offenses appear to be discrete incidents that lend themselves to proof and contradiction by traditional presentation of testimonial evidence.

As for the volume of reports, line sheets, preliminary transcripts, photographs, and financial documents, quantity does not demonstrate complexity. Trying a case always involves separating the wheat from the chaff; that there may be a lot of chaff does not mean that finding the wheat is complex.

A fair reading of the government's motion suggests not that the case is complex, but that the grand jury was asked to return an indictment against Mr. Yoakum [and subsequently the co-defendants] before the government had completed its review and organization of the evidence. Nothing in the Superseding Indictment suggests that the government was compelled to act precipitously in filing charges; the conspiracy is alleged to have continued through August 31, 2009 [the day preceding its return]; the substantive offenses are all alleged to have been committed during Calendar Year 2009. No expiring statute of limitations appears to have necessitated the return of an indictment.

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The return of an indictment did, however, result in Mr. Yoakum's immediate and continuing detention. It triggered his statutory and constitutional rights to a speedy trial. He has done everything in his power to exercise those rights. Those efforts should not be thwarted by declaring a case that the government is simply not prepared to try as complex.

The remedy for the government not being prepared to try the case as scheduled is a dismissal [with or without prejudice] and Mr. Yoakum's release from custody, not a designation as complex.¹

2. Vacate Dates

For the reasons set forth above and in Defendant Yoakum's Reply to Government's Response in Opposition to Defendant James Ray Yoakum's Motion for Severance, Mr. Yoakum does not believe that as to his case, there is reason to vacate dates.

3. Set Status Conference

Mr. Yoakum has no objection to the Court convening a status conference, but believes it should address issues surrounding a trial beginning December 15, 2009, not the subjects listed in the government's motion.

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¹ Especially in light of the inordinate delay that has come to attend trial settings in cases declared complex. *See, e.g. United States v. Macias-Ovalle*, United States District Court for the District of Oregon Case No. CR 08-228-MO [government's motion to declare case complex granted June 18, 2008; trial now set to begin February 16, 2010].

4. Exclude Time under the Speedy Trial Act

For the reasons set forth above and in Defendant Yoakum's Reply to Government's Response in Opposition to Defendant James Ray Yoakum's Motion for Severance, Mr. Yoakum does not believe there is a basis to exclude time under the Speedy Trial Act. He also urges the Court to find that finding excludable delay at this time would violate his constitutional right to a speedy trial.

CONCLUSION

For each of the reasons set forth above, the Court should deny the government's request to declare this case complex, decline to vacate dates, and refuse to exclude time under the Speedy Trial Act. Should the Court determine to convene a status conference, counsel for Mr. Yoakum will of course attend.

DATED this 9th day of December, 2009.

RANSOM BLACKMAN LLP

/s/ JOHN S. RANSOM
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing DEFENDANT JAMES RAY YOAKUM'S OBJECTION TO GOVERNMENT'S MOTION TO DECLARE CASE COMPLEX, VACATE DATES, SET STATUS CONFERENCE, AND EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT on the following attorneys by electronic case filing a full and complete copy thereof on the 9th day of December, 2009.

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